

Proceedings of the Arizona Game and Fish
Commission License Revocation and Civil
Assessment Hearings
Time Certain – 10:00 a.m.
Friday, August 26, 2016
Show Low City Council Chambers
181 N. 9th Street
Show Low, Arizona 85901

PRESENT: (Commission)

(Director's Staff)

Chairman Edward "Pat" Madden
Commissioner James R. Ammons
Commissioner James S. Zieler
Commissioner Eric S. Sparks
Commissioner Kurt R. Davis

Director Larry D. Voyles
Deputy Director Ty E. Gray
Assistant Attorney General Jim Odenkirk
Assistant Attorney General Linda Pollock

Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments
for the Illegal Taking and/or Possession of Wildlife

Presenter: Gene Elms, Law Enforcement Branch Chief

Mr. Elms presented the cases below to the Commission. Each of these cases were reviewed and it was determined that all cases met the criteria established in A.R.S. §17-238, §17-245 §17-314, §17-340, §17-362, §17-363 and/or §17-502 for Commission action. The Commission and the respondents were provided with copies of the original court docket and case reports prepared by the officers along with copies of all other pertinent materials in each of these cases. Each of the following individuals was legally noticed for this hearing.

Name	Docket #	Count	Conviction
Manuel E. Marquez	2016-0011	Count A:	Take wildlife during a closed season (4X4 Mule Deer)
		Count B:	Possess unlawfully taken wildlife (4X4 Mule Deer) Citation A05559
Justin W. Walker	2016-0060	Count A:	Locate Elk from an aircraft in unit with open big game season Citation A05560
		Count A:	Locate Elk from an aircraft in unit with open big game season
		Count B:	Harass Elk with an aircraft Citation A07094
Donald E. Gaskey	2016-0063	Count A:	Obtain 2015 resident combo license by fraud Citation A07096
Ross E. Roberts	2016-0066	Count A:	Obtain 2014 resident turkey tag by fraud
Gregory A. Barney	2016-0067	Count B:	Waste of game meat (Mule Deer Doe)
		Count A:	Take wildlife by unlawful method (Calf Elk)
		Count B:	Possess unlawfully taken wildlife (Calf Elk)
		Count C:	Take wildlife during closed season (Calf Elk)

Gregory A. Barney	2016-0073	Citation A12756	
		Count A:	Take wildlife by unlawful method (Cow Elk)
		Count B:	Take wildlife during closed season (Cow Elk)
		Count C:	Take wildlife in excess of bag limit (Cow Elk)
		Citation A12757	
Gregory A. Barney	2016-0077	Count A:	Possess unlawfully taken wildlife (Mule Deer Doe)
		Count B:	Possess wildlife without evidence of legality (Mule Deer Doe)
		Count A:	Take wildlife without a valid permit (Spike Bull Elk)
		Count B:	Take wildlife by unlawful method (Spike Bull Elk)
		Count C:	Possess unlawfully taken wildlife (Spike Bull Elk)
Miguel A. Benitez III	2016-0068	Count D:	Waste edible game meat (Spike Bull Elk)
		Count E:	Take wildlife in excess of bag limit (Spike Bull Elk)
		Count A:	Possess unlawfully taken wildlife (Bull Elk)
		Count B:	Possess unlawfully taken wildlife (Calf Elk)
		Count C:	False reporting to law enforcement

Roll call was taken and the following were present: Donald Gaskey, Ross Roberts, Gregory Barney and Miguel Benitez.

Mr. Elms stated that the civil assessment process is not intended to be punitive, but is a process allowing the Commission to recover financial damages to compensate the State for the loss of any wildlife. Hunter Education requirements are imposed as a remedial measure to increase knowledge and prevent future violations and not as punishment. The Commission was asked to consider and take action on the license revocations and/or civil assessments for the individuals listed above.

Motion: Zieler moved and Ammons seconded THAT THE COMMISSION VOTE TO TAKE JURISDICTION IN THESE CASES.

Vote: Unanimous

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Manuel E. Marquez
Docket # 2016-0011

Marquez was found guilty by the Pinetop/Lakeside Justice Court for Count A: Take wildlife during a closed season (4x4 mule deer); and Count B: Possess unlawfully taken wildlife; and sentenced: Fined \$619.00.

Marquez was not present.

Case Officer Birkeland was present, but had nothing to add except that the corresponding case has not gone beyond pre-trial negotiations for about 19 months.

Commissioner Zieler questioned whether or not this was a trophy class animal and asked the other Commissioners if they had any question, which they did not.

Motion: Davis moved and Ammons seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF MANUEL E. MARQUEZ TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST MANUEL E. MARQUEZ TO COLLECT THE AMOUNT OF \$8,000.00 FOR THE LOSS OF ONE (1) 4X4 MULE DEER; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Donald E. Gaskey
Docket # 2016-0063

Gaskey was found guilty by the Desert Ridge Justice Court for Citation A07094, Count A: Obtain 2015 resident combo license by fraud; Citation A07096, Count A: Obtain 2014 resident turkey tag by fraud; and sentenced: Fined \$984.00.

Gaskey was present and addressed the Commission stating that he bought a home in Arizona in 2012, and when he bought his license at Walmart in 2014, he was advised by the Walmart attendant that he was an Arizona resident since he had lived in Arizona for over six months. The attendant also encouraged and sold him on a combo license. Since he then had a hunting license, his son invited him on a turkey hunt. He understands now from his experience that he should read the hunting regulations from any state where he hunts or goes fishing.

Commissioner Zieler confirmed with Mr. Gaskey that he had purchased resident hunting licenses in Oregon at the same time he purchased licenses in Arizona.

Commissioner Davis discussed with Mr. Gaskey how he could have thought he could have resident license in both states.

Gaskey stated that the Walmart attendant was so certain and assured him he could purchase the resident license. He had no idea he was doing anything wrong. He has not applied for anything in Oregon since this issue came up. He just wants to get past it.

Jane Gaskey addressed the Commission on behalf of her husband Donald Gaskey.

Case Officer Raspiller was present via video teleconference and confirmed that Mr. Gaskey was purchasing resident licenses in both states at the same time.

Motion: Ammons moved and Davis seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF DONALD E. GASKEY TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER UNTIL HE COMPLETES THE HUNTER EDUCATION COURSE AND PROVIDES PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Commissioner Davis noted to Mr. Gaskey that the Commission has been very lenient in his case.

Commissioner Ammons stated that he believed Mr. Gaskey did not intend to break the law and that the Hunter Education course will help him understand Arizona's law.

Vote: Unanimous

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Ross E. Roberts
Docket # 2016-0066

Roberts was found guilty by the Mayer Justice Court for Count B: Waste of game meat (mule deer doe); and sentenced: Fined \$350.00.

Roberts was present and addressed the Commission stating that he and his family tried, but were unable to locate the animal in the dark. Additionally, the reporting party made several mistaken identities and accusations in this matter. Since he wasn't sure if he or someone else fired the fatal shot, he didn't confess immediately. Roberts requested leniency from the Commission.

Case Officer White was not available.

Charles Roberts, grandfather of Ross Roberts, addressed the Commission on behalf of his grandson.

Commissioner Davis mentioned the report, in which it was reported that people walked up to a wounded deer, and asked if Roberts or anyone in his party walked up to a wounded deer.

Roberts stated that he/they did not.

Commissioner Davis noted that Roberts should have described everything that happened to the officer at the time of the incident and not later.

Commissioners Sparks and Zieler further discussed/confirmed with Roberts that he shot, but didn't know that he hit a deer, and when they couldn't find the deer, no one in his party knew that a mule deer doe had been shot.

Motion: Zieler moved and Davis seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF **ROSS E. ROBERTS TO HUNT, FISH AND TRAP** IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF **TWO (2) YEARS**; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST **ROSS E. ROBERTS** TO COLLECT THE AMOUNT OF **\$1,500.00** FOR THE LOSS OF **ONE (1) MULE DEER DOE**; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Aye - Madden, Zieler, Davis
Nay - Ammons, Sparks
Passed 3 to 2

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Gregory A. Barney
Docket # 2016-0067

Mr. Elms presented Mr. Barney's three cases at the same time.

This case is related to the case of Miguel A. Benitez.

Barney was found guilty by the Flagstaff Justice Court for Count A: Take wildlife by unlawful method (calf elk); Count B: Possess unlawfully taken wildlife; Count C: Take wildlife during closed season; and Count D: False reporting to law enforcement; and sentenced: Fined \$2,751.00.

Gregory A. Barney
Docket # 2016-0073

Barney was found guilty by the Flagstaff Justice Court for Citation A12756, Count A: Take wildlife by unlawful method (cow elk); Count B: Take wildlife during closed season; and Count C: Take wildlife in excess of bag limit; and Citation A12757, Count A: Possess unlawfully

taken wildlife (mule deer doe); and Count B: Possess wildlife without evidence of legality; and sentenced: Combined fine of \$3,112.00.

Gregory A. Barney
Docket # 2016-0077

Barney was found guilty by the Flagstaff Justice Court for Count A: Take wildlife with valid permit (spike elk); Count B: Take wildlife by unlawful method; Count C: Possess unlawfully taken wildlife; Count D: Waste edible game meat; and Count E: Take wildlife in excess of bag limit; and sentenced: Fined \$1,762.00.

Barney was present and addressed the Commission stating that he knows he did wrong, he is sorry that it happened and wants to make amends.

The Commission discussed with Mr. Barney that these are numerous violations with serious consequences.

Case Officers Chandler, Greer and Clay were present and expressed to the Commission that it was one of the most egregious cases they have ever had.

Motion: Madden moved and Zieler seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF GREGORY A. BARNEY TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; FOR THE TAKE OF ONE (1) CALF ELK, DOCKET 2016-0067; AND TEN (10) YEARS FOR THE TAKE OF ONE (1) COW ELK AND ONE (1) MULE DEER DOE, DOCKET 2016-0073; AND PERMANENTLY FOR THE TAKE OF ONE (1) SPIKE ELK, DOCKET 2016-0077; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST GREGORY A. BARNEY TO COLLECT THE TOTAL AMOUNT OF \$9,000.00 FOR THE LOSS OF ONE (1) CALF ELK (\$2,500.00), ONE (1) COW ELK (\$2,500), ONE (1) MULE DEER DOE (\$1,500.00), AND ONE (1) SPIKE ELK (\$2,500.00); AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Miguel A. Benitez III
Docket # 2016-0068

This case is related to the case of Gregory Barney.

Benitez was found guilty by the Flagstaff Justice Court for Count A: Possess unlawfully taken wildlife (bull elk); Count B: Possess unlawfully taken wildlife (calf elk); and Count C: False reporting to law enforcement; and sentenced: Fined \$662.00.

Benitez was present and addressed the Commission. He admitted guilt for what he did. He doesn't know much about hunting, but he knew there was something wrong with what they did. Benitez apologized for his actions.

Motion: Sparks moved and Madden seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF MIGUEL A. BENITEZ III TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Aye - Madden, Zieler, Sparks
Nay - Ammons, Davis
Passed 3 to 2

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Justin W. Walker
Docket # 2016-0060

Walker was found guilty by the Clifton Justice Court for Citation A05559, Count A: Locate elk from an aircraft in unit with open big game season; and Citation A05560, Count A: Locate elk from an aircraft in unit with open big game season; and Count B: Harass elk with an aircraft; and sentenced: Fined \$250.00.

Walker was not present, but sent a letter to the Commission for consideration prior to this meeting.

Commissioner Zieler recused himself from this case because he has known Mr. Walker for quite a long time.

Case Officer Hartzell was present and addressed the Commission.

Commissioner Davis expressed his appreciation to the case officer for his work on this case.

Motion: Sparks moved and Ammons seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JUSTIN W. WALKER TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5)

YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Aye - Madden, Ammons, Sparks
Nay - Davis
Passed 3 to 1
Zieler recused

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These hearings concluded at 11:22 p.m.

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